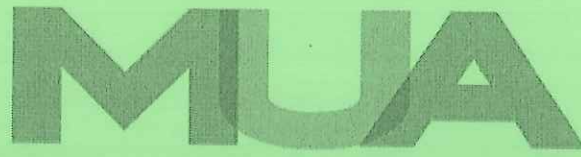


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UNDERGRADUATE UNIVERSITY EXAMINATIONS

SCHOOL OF MANAGEMENT AND LEADERSHIP

DEGREE OF BACHELOR OF COMMERCE

BCM 121: BUSINESS LAW I

DATE: 1<sup>ST</sup> AUGUST 2018

DURATION: 2 HOURS

MAXIMUM MARKS: 70

INSTRUCTIONS:

1. Write your registration number on the answer booklet.
2. **DO NOT** write on this question paper.
3. This paper contains **SIX (6)** questions.
4. Question **ONE** is compulsory.
5. Answer any other **THREE** questions.
6. Question **ONE** carries **25 MARKS** and the rest carry **15 MARKS** each.
7. Write all your answers in the Examination answer booklet provided.

### QUESTION ONE

- (a) "An occupier of premises owes a duty of care towards persons who are lawfully on his premises. The Occupiers Liability Act does not affect the position of trespassers." In relation to the above statement, what is the extent of potential liability of an occupier and to what extent can such an occupier safeguard such liability. (10 marks)
- (b) Due to Desmond's carelessness in allowing excessive electric current to develop in his generator, the electricity supply to the locality cut after a few hours. As a result, Derrick's factory was at a standstill during this period and he lost Sh. 50,000 by way of profits from lost production. Advise Derrick in regard to his rights, if any, against Desmond. (8 marks)
- (c) How true is it to say that in order for a contract to be discharged by performance, the performance must be precise and exact? (7 marks)

### QUESTION TWO

- a) Explain the key distinctions between common law and equity. (8 marks)
- b) Custom is the oldest source of law. Explain the criteria which must be satisfied before a custom can be applicable as law. (7 marks)

### QUESTION THREE

- a) Describe the composition and jurisdiction of the Court of Appeal. (8 marks)
- b) Explain the nature and advantages of commercial arbitration as a means of settling disputes. (7 marks)



#### QUESTION FOUR

- a) Discuss the various equitable remedies which may be available to an injured party who is suing for breach of contract. (8 marks)
- b) A corporation may be defined as “ a legal person, artificial person or a legal entity” Explain what is meant by this statement. (7 marks)

#### QUESTION FIVE

The fundamental rights and freedoms of the individual are guaranteed by the constitution but are subject to respect for the rights and freedoms of others and for public interest. With reference to life, liberty, security of the person and protection of law:

- (a) Explain circumstances when a person shall not be regarded as having been deprived of his life in contravention of the provisions of the Constitution if he dies as a result of the use of force. (5 marks)
- (b) Cite instances when a person shall be lawfully deprived of personal liberty. (10 marks)

#### QUESTION SIX

- a) Define the term “dependant” (2 marks)
- b) State the formalities of a valid written will. (2 marks)
- c) State the order of priority in which a deceased’s property is distributed where he dies intestate leaving no spouse or children. (4 marks)
- d) Highlight the circumstances under which a grant of representation may be revoked as provided for under the Law of Succession Act (Cap. 160) Laws of Kenya. (7 marks)

